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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/734,717

12/12/2003

William Bedingham

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2357

32692

7590

12/30/2005

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EXAMINER

RAEVIS, ROBERT R

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	<b>Application No.</b> 10/734,717	<b>Applicant(s)</b> BEDINGHAM ET AL.	
	<b>Examiner</b> Robert R. Raevis	<b>Art Unit</b> 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Exhibits "A" and "B"</u> .             |

### DETAILED ACTION

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 1-22, the terms "valved" and "valve" are confusing, as the written specification and disclosure seems to describe a wall 64 in which an opening is formed by a laser, and not a valve. The term "valve" is not consistent with its regular meaning. After all, valves are reusable, and the disclosed creation of an opening in the wall 64 is not. Valves include seats and valve members. Puncturing a hole in the side of a pool does not suggest a valve. It merely suggests a broken liner.

As to claim 1, is the "a first major side" (line 4 from last) the same as the "first" (line 3) major side? Is the same side being claimed twice? (Double Inclusion)

Claims 1-3,5,8,14,16,17,20 are rejected under 35 U.S.C. 102(b) as being anticipated by Godec et al.

Godec et al teach (Figure 2; See Exhibit "A", taking care to following the penciled lines, leads and labels) valved process chamber on a sample processing device, the valved process chamber including: process chamber 90 having a volume between right and left hand external walls of "rectangular" (col. 6, line 44) housing 10, the chamber occupying an process chamber area (between right hand external wall and vertically extending mid wall), and the area having a length (height) and width; a valve chamber 60 located within the process chamber area, the valve chamber located between the

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process chamber volume 90 and the left hand side of the processing device, where the valve chamber is isolated from the process chamber by a septum 94 separating the valve chamber and the process chamber, and where a portion of the process chamber volume lies between the septum 94 and the right hand external wall. The chamber is typically a "test tube" (col. 8, line 17), which passes electromagnetic energy there through, permitting liquid level to be seen as it leaves the container.

As to claims 1,2,14,16,17,20, test tubes are transparent, and thus provide for a detection window. Also, the height of the apparatus 10 may be deemed to be a length, as it is a measure of length.

As to claims 3,5, the wall on the right-hand side of volume 90 may be deemed to be a major side. Also, the chamber 90 is inside the container external wall, and thus mutually exclusive.

As to claim 8, septum 94 appears to be 1 mm thickness.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Godec et al.

As to claim 21, it would have been obvious to utilize Godec's apparatus to test blood because blood is typically removed from test tubes for sampling, suggestive of Godec's effective analyzer supplier as a means to pass blood in a test tube to an analyzer.

Claims 1-18,20,21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parthasarathy et al (US2003/0138779) in view of Kellogg et al '589.

Parthasarathy et al teach (Figures 3, 4) a process chamber 150a/ valve 172a/ valve chamber 170a arrangement to pass sample material through a rotating system, but do not position a window in chamber 150a.

Kellogg teaches (Figure 3E; col. 11, lines 45-65) a process to perform analysis upon a sample, including locating a sacrificial valve 213 between a process chamber 207 and read ("valve") chamber 210, and use of optical detection methods to test the material within the chamber 210 via a plastic window of the chamber.

As to claims 1-6,9-12,13-18,19-21, it would have been obvious to use Kellogg's window in Parthasarathy's process chamber 150a because Kellogg teaches that windows may be employed in chambers of process lines so that those same chambers may be employed as "read" chambers to analyze fluid passing there through.

As to claim 7, the percentage cited appears evident in Figure 4 of Parthasarathy.

As to claim 8, passage dimensions for process system are in the range of millimeters.

As to Applicant's Remarks, consider the following:

As to p. 8, last paragraph; Applicant may consider defining what his "valve" is in a subsequent paper. It was noted that the Parthasarathy reference is a publication that employs the use of the term "valve" in dependent claim 40, and that the reference includes the same inventors as the application in issue. The relating of the

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term “valve” with “piercing” (Paragraph 92) is a bit difficult to accept, as piercing does not seem to describe a valve. As a result, Undersigned hesitates to accept that a piercing mechanism describes a valve.

As to p. 9, second paragraph; the phrase “first and second major sides” (line 3-4) means that there is a first major side and a second major side, while the subsequently recited limitation “a first major side” (*italics* added, line 4 from last) means that there is a second “first major side”. If the invention employs two different major first sides, please point them out, and amend the claim (specification) such that the two different sides have different names. However, if the invention employs one major first side, an explanation is required as to why Applicant reciting the same side twice?

As to p. 10, first full para; please see Exhibit “B”, which illustrates a “portion” (designated by the circle) of the process chamber volume located between the septum and first major side.

As to p. 10, second full para; please note that vial 90 is a “test tube” (col. 8, line 17, or Godec). Such vials are transparent, allowing a individual to determine if a sufficient material is in the vial before inserting the vial into the tester.

As to p. 10, second full para; the shorter needle of Figure 1 of Godec would seem to form an opening in the septum 94 along the length of the process chamber, the location of which is related to the level of the sample liquid in the container. Note the Godec does identify the sample as liquid in his claim 12.

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As to p. 11, 4<sup>th</sup> full paragraph; please look at Figure 3 of Parthasarathy et al. Element 150a is three dimensional, and has a shape. The dimensions in the three dimensions are different.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 7am to 4pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


  
RAEUS



EXHIBIT  
"A"

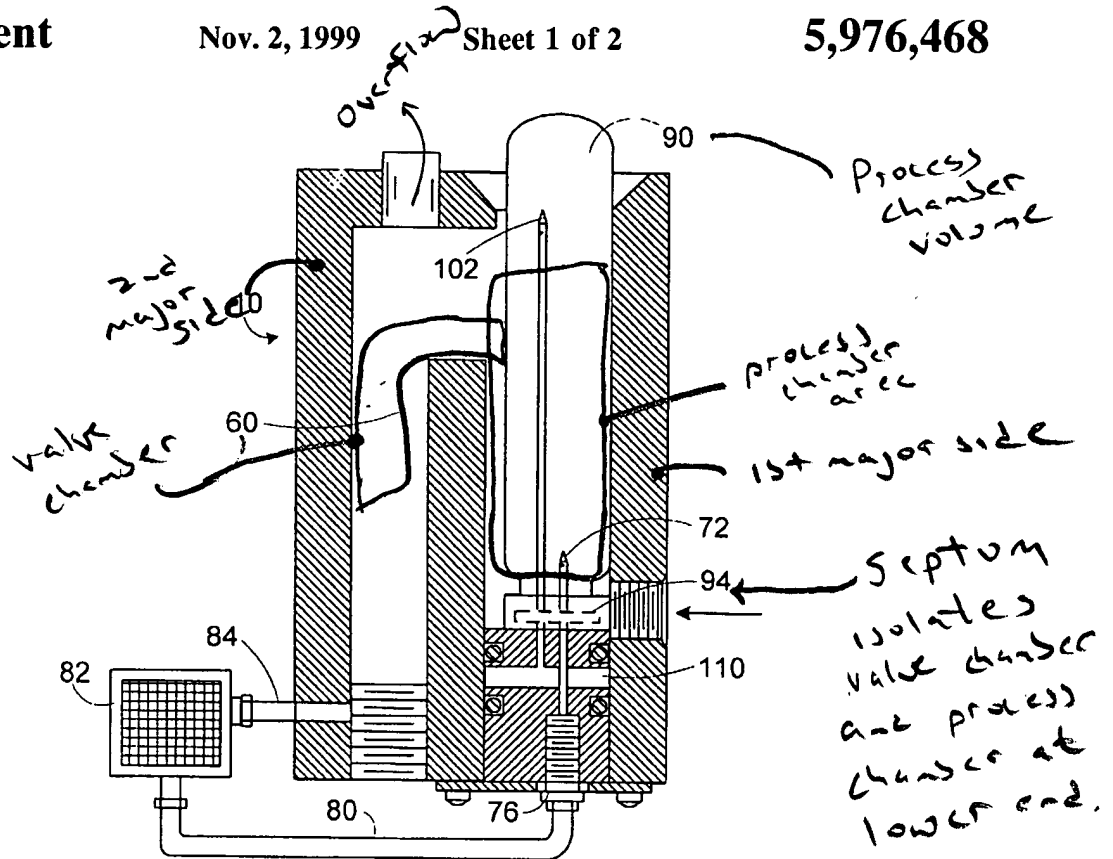


FIG. 2

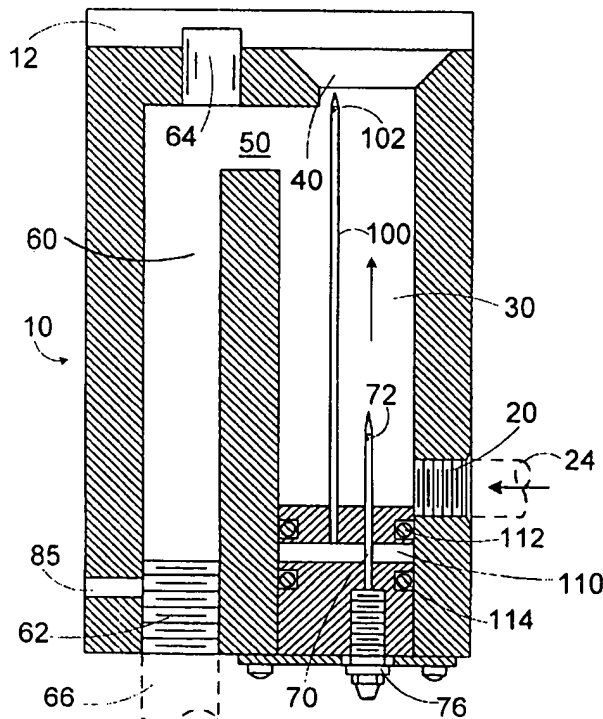


FIG. 1

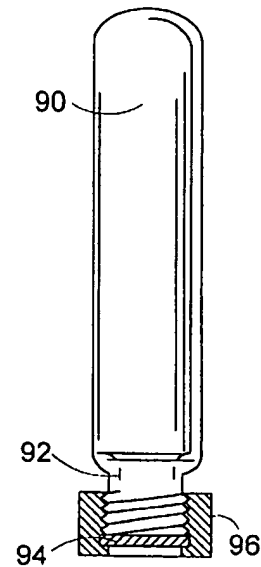


FIG. 3

EXHIBIT  
"B"

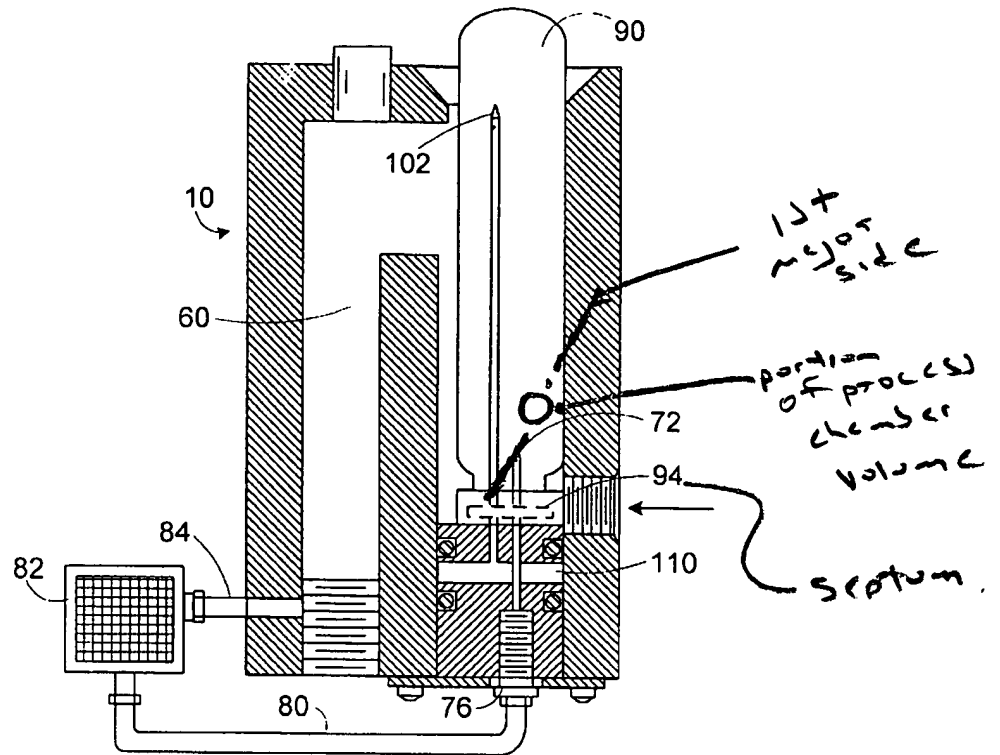


FIG. 2

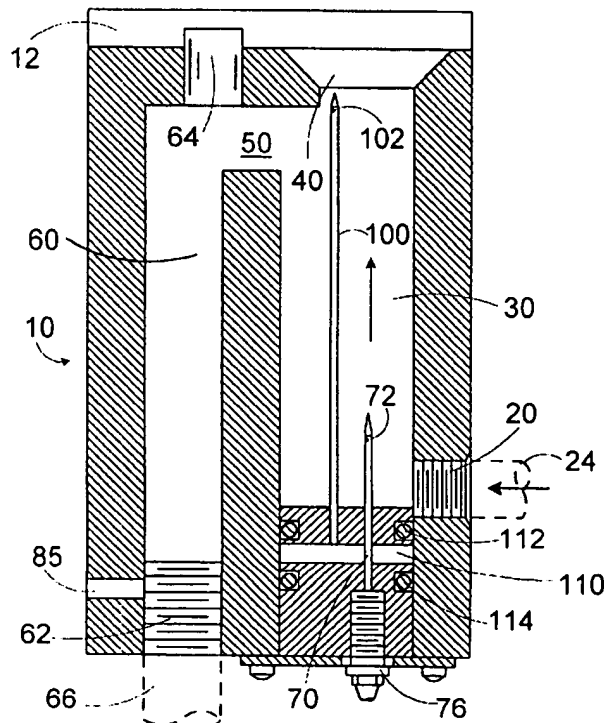


FIG. 1

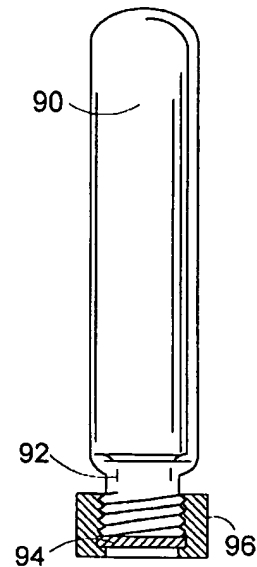


FIG. 3